IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.15212 & 15217 of 2024
and
W.M.P.Nos.16548, 16551, 16556 & 16558 of 2024

In both W.Ps. :

M/s Kisul Enviro India Pvt Limited
Rep.by its Authorized Representative
Shri. Ashish Kumar. ... Petitioner

Versus

1.Assistant Commissioner Of State Taxes (FAC),
Kodungaiyur Assessment Circle, Station 32,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Chennai- 03.

2.Deputy Commissioner Of State Taxes (Appeals – I),
Annexe Building, Commercial Tax Buildings,
Greams Road, Chennai 600 006. ... Respondents

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, quashing the communication bearing Rc No.420/2024/A2 & Rc No.422/2024/A2 Dated 13.02.2024 respectively issued by the second respondent and directing the second respondent to consider the appeals filed by the Petitioner on merits and pass appropriate orders thereon.

In both W.Ps. :

For Petitioner : Mr. G. Natarajan

For Respondents : Mrs. K. Vasanthamala,
Government Advocate (Tax)

COMMMON ORDER

In both these writ petitions, an order dated 13.02.2024 of the appellate authority is the subject of challenge.

2. Proceedings were initiated against the petitioner by issuing show cause notice dated 07.08.2023. The petitioner did not participate in proceedings culminating in orders dated 12.09.2023. Such orders were carried in appeal by remitting 10% of the disputed tax demand. Because the appeals were presented with a delay of about 18 or 19 days, the appeals were rejected. The present writ petitions were filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the original orders were issued *ex-parte* and that the tax proposals confirmed by such orders relate to the difference between the turnover reported in the GSTR-3B returns of the petitioner and details contained in Form 26AS. If provided

an opportunity, learned counsel submits that the petitioner would be in a position to explain the disparity. He also points out that 10% of the disputed tax demand was paid while presenting the appeals.

4. The orders in original have been placed on record. The said orders record that the tax proposals are being confirmed because the petitioner did not respond to the show cause notices. By taking into account the fact that the petitioner has already remitted 10% of the disputed tax demand and that the orders were issued *ex-parte*, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits.

5. For reasons aforesaid, by moulding the relief, the orders in original are set aside and these matters are remanded to the original authority. The petitioner is permitted to submit a reply to the show cause notices within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide an opportunity to the petitioner, including a personal hearing and thereafter issue fresh orders within three months. On account of the orders in original

being set aside, the bank attachment is raised.

6. The Writ Petitions are disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

19.06.2024

Index :Yes/No
Speaking/Non-Speaking
Neutral Case Citation : Yes/No

klt

To

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SENTHILKUMAR RAMAMOORTHY,J

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